

The following "**Neighborhood Beautification Ordinance**" was introduced to the City Council on September 7, 1999, and was adopted at the City Council meeting on September 21, 1999.

## **FINAL NEIGHBORHOOD BEAUTIFICATION ORDINANCE**

### REGULAR

NUMBER: \_\_\_\_\_

TITLE: AN ORDINANCE REPEALING TITLE I, CHAPTER 20, SECTION 4 ENTITLED "ABATEMENT OF NUISANCES", AMENDING TITLE V, CHAPTER 202, SECTION 17.00, AND ADDING TITLE V, CHAPTER 500 ENTITLED NEIGHBORHOOD BEAUTIFICATION ORDINANCE TO THE MILPITAS MUNICIPAL CODE

HISTORY: This ordinance was introduced at a meeting of the City Council of the City of Milpitas on \_\_\_\_\_, by motion of Councilmember \_\_\_\_\_, and was finally adopted at a meeting of said Council on \_\_\_\_\_, upon motion of Councilmember \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
Gail Blalock, City Clerk

\_\_\_\_\_  
Henry C. Manayan, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven T. Mattas, City Attorney

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ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

Section 1. Purpose Statement.

The City Council hereby declares the purpose of this Ordinance to be as follows:

- a. To preserve and enhance the beauty of our community and neighborhoods;

b. To foster pride in our community and neighborhoods.

c. To promote a healthy and safe environment for the residents and businesses of Milpitas.

Section 2. Title I, Chapter 20, Section 4 entitled "Abatement of Nuisances" is hereby repealed in its entirety.

Section 3. Title V, Chapter 202, Section 17.00 entitled "Alternative Procedures" is hereby amended to read as follows:

"The provisions for abatement located in Chapter 500, Title V of the Milpitas Municipal Code may be used as an alternative to the procedures set forth in this Chapter 202, Title V for abatement of the nuisance herein described."

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Section 5. Title V, Chapter 500 is hereby added to the Milpitas Municipal Code entitled, "Neighborhood Beautification Ordinance," to read as follows:

"TITLE V: PUBLIC HEALTH, SAFETY AND WELFARE

Chapter 500 Neighborhood Beautification Ordinance

V-500-1.00: DEFINITIONS.

V-500-1.01: ABATE. "Abate" shall mean to repair, replace, remove, destroy or otherwise remedy the condition in violation of this Chapter.

V-500-1.02: ACCUMULATION. "Accumulation" shall mean a collection, pile, stockpile, or heap of some material.

V-500-1.03: BUILDING. "Building" shall mean any structure used or intended for supporting or sheltering any use or occupancy.

V-500-1.04: CITY MANAGER. "City Manager" shall mean the City Manager of the City of Milpitas or his or her designees.

V-500-1.05: ENFORCEMENT OFFICER. "Enforcement officer" shall mean that person or persons specifically designated by the City Manager to enforce the provisions of this Chapter.

V-500-1.06: JUNK. "Junk" shall mean any discarded, scrapped, unusable, or wrecked object, thing or material.

V-500-1.07: MAJOR VEHICLE REPAIRS. Major repairs include pulling an engine block, repair or replacement of transmissions and front and rear axles, major body repair, dismantling, and similar work associated with automobiles, boats or other motorized vehicles.

V-500-1.08: MINOR VEHICLE REPAIRS. Minor repairs include routine maintenance such as changing oil and tires; replacement of water pump, alternator, brakes, shocks, oil and air filters, and spark plugs; and similar work associated with automobiles, boats or other motorized vehicles.

V-500-1.09: OWNER/OCCUPANT. "Owner/occupant" shall mean any person owning property, as shown on the last equalized assessment roll for City taxes, or the lessee, tenant, or other person having control or possession of the property.

V-500-1.10: PERSON. "Person" shall mean any individual, partnership, corporation, association or other organization, however formed.

V-500-1.11: PROPERTY. "Property" shall mean all real property and fixtures, including, but not limited to parking lots, sidewalks, gutters, driveways, walkways and any building and structure located on such property.

V-500-1.12: REGISTERED/REGISTRATION. A current, valid California Registration for a vehicle conforming to California Vehicle Code Sections 4000 or 9840 et seq.

V-500-1.13: PUBLIC RIGHT-OF-WAY. "Public right-of-way" shall mean the full width of the right of way of any street, as defined in the California Vehicle Code used by the general public, whether or not such street has been accepted as and declared to be part of the City system of streets, including streets forming a part of the State Highway System. "Public right-of way" also includes easements where the City is the grantee of the easement and property owned by the City of Milpitas or the Redevelopment Agency of the City of Milpitas and any public park, trail, or right-of-way within the City of Milpitas.

V-500-1.14: RESERVED.

V-500-1.15: UNREASONABLE PERIOD OF TIME. "Unreasonable period of time" shall mean not less than thirty (30) calendar days following notification by the City to the owner/occupant pursuant to V-500-3.01 that the property is in violation of this Chapter. The City Manager, upon a finding that the violation in question constitutes a threat to the health and safety of any person may designate a time period of thirty (30) calendar days or less upon notice to the owner/occupant to abate the nuisance.

V-500-1.16: VECTOR. "Vector" shall mean any insect or animal likely to transmit any disease and injurious to humans.

V-500-1.17: VEHICLE. "Vehicle" shall mean a device by which any person or property may be propelled, moved or drawn upon a highway, road or body of water, and for the purposes of this Chapter shall include, but not be limited to, automobiles, recreational vehicles, campers, boats, motorcycles and mopeds, but shall not include bicycles, skateboards or similar non-motorized personal transportation.

V-500-1.18: RESERVED.

V-500-2.00: NUISANCES.

V-500-2.01: UNLAWFUL PROPERTY NUISANCE - PRIVATE PROPERTY. It shall be unlawful for any person owning, leasing, renting, occupying, or having charge or possession of private

property in the City to maintain or to allow to be maintained such property in such manner that any of the following conditions that are found to exist thereon for an unreasonable period of time (as defined in Section V-500-1.15) after a notice to abate pursuant to Section V-500-3.01 is provided, except as may be allowed by this Code:

(a) OUTDOOR STORAGE.

- (1) The accumulation (as defined in Section V-500-1.02) of abandoned or discarded objects, including but not limited to junk, machine parts, scrap material, appliances, furniture, household equipment and furnishings, containers, packing materials, scrap metal, garbage, or similar matter which constitutes a threat to the health or safety of any person; or which is visible from the public right-of-way.
- (2) The accumulation of more than one cubic yard of dirt, sand, gravel, concrete, litter, debris or other similar material on the property, which is visible from the public right-of-way. Dirt, sand, gravel, concrete or topsoil may be stored in an area visible from the public right-of-way for no more than fourteen (14) calendar days as part of an landscaping or driveway or sidewalk repair or replacement project.
- (3) Attractive nuisances visible from a public right-of-way, dangerous to those members of the public unable to discover the nuisance condition, or recognize its potential danger, including, but not limited to, abandoned, broken or neglected vehicles, machinery, equipment, refrigerators and freezers, swimming pools, ponds and excavations.
- (4) Materials stored or stacked on commercial or industrial property in a disorderly manner in view of the public right-of-way in zoning districts where outdoor storage is permitted. Nothing in this section shall be construed as prohibiting the orderly outdoor storage of business related materials and inventory above fence height where permitted by applicable zoning designation and/or conditional use permit.
- (5) Vehicles which are in a state of partial construction, dilapidation, or disrepair and are visible from the public right-of-way.
- (6) Camper shells which are stored in front yards, driveways, side yards, or walkways and are visible from the public right-of-way. This subsection shall not apply to campers which include a floor and accessories similar to a recreational vehicle such as beds, seats, a stove and refrigerator.
- (7) Clotheslines or clothes hanging in front yards, porches or balconies visible from a public right-of-way.
- (8) Tarpaulins or other types of temporary covering materials used for covering of solid waste, junk, abandoned materials or roofs or real property as defined in Section V-500-1.11, and visible from the public right-of-way.

(b) LANDSCAPING/VEGETATION.

- ~~(1)~~ Dead, decayed, diseased or hazardous trees, weeds, shrubs or other vegetation, dangerous to public health, safety and welfare, or, if visible from the public right-of-way. This Section shall not be interpreted to prevent an owner/occupant from maintaining a garden on the property for the purpose of growing fruits and vegetables.
- (2) Vegetation, that is overgrown and likely to harbor rats, vermin, and other similar nuisances detrimental to neighboring properties, or vegetation growing into the public right-of-way, or vegetation obstructing the view of drivers on any public street or right-of-ways or private driveways.

(c) BUILDINGS AND STRUCTURES.

- (1) Buildings or parts thereof which are (i) abandoned, boarded up, partially destroyed, or (ii) have broken windows glass or broken windows secured with wood or other materials and are dangerous to the public health, safety, and welfare, or (iii) are left in a state of partial construction, or (iv) are subject to demolition pursuant to applicable permit or other authority for which demolition has not been completed within the time period specified by the applicable permit or other authority; or (v) are unpainted or

where the paint on the building exterior has extensive cracking, peeling, or chalking and where such condition is visible from the public right-of-way.

- (2) Unsecured buildings constituting a hazardous condition or inviting or permitting trespassers or malicious mischief.
- (3) Awnings, covers, canopies, umbrellas, screens, signs or other window coverings or building structures which are severely damaged, torn, faded, rusted, or bent, unpainted or in some other state of disrepair and visible from the public right-of-way.
- (4) The maintenance of private sidewalks or sound walls in an unsafe, or unsanitary condition. A separation distance of greater than 3/4 inch at a private sidewalk joint shall be evidence of an unsafe condition.

(d) FENCES AND GATES.

- (1) Fences or other structures on private property abutting, fronting upon, or visible from the public right-of-way, which are severely sagging, leaning, fallen, or decayed, extending into the public right-of-way without being allowed by an encroachment permit or which is otherwise in an unsafe condition.
- (2) The existence of any barbed wire or razor ribbon fences within four feet of any public sidewalk or public right-of-way and at a height of less than six feet from the ground level; or any wire, twine, or rope fences consisting of one or more strands, less than three feet in height and within three feet of any public sidewalk; or any electric fences or any fences or walls with pieces of glass or other sharp objects (not including barbed wire) embedded or affixed to the top thereof.

(e) PARKING IN FRONT YARDS OR PUBLIC RIGHT-OF-WAY CORNER SIDE YARDS.

- (1) Vehicles parked upon any lawn or other surface lying within any front yard or public right-of-way corner side yard, unless the vehicle is parked on a paved driveway which provides access to a required parking space a recreational vehicle parking space, or parking lot and which derives access from any public or private public right-of-way. This section shall not apply to vehicles parked upon a lawn or other surface lying within any front yard or public right-of-way corner side yard for the purpose of washing or waxing the vehicle provided that the vehicle shall not be so parked for a period of more than six consecutive hours.

(f) RESIDENTIAL VEHICLE REPAIR

- (1) The performance of major vehicle repairs, as defined in Section V-500-1.07 of this Chapter or dismantling of any motorized or non-motorized vehicle, boat, or part thereof, in a location outside of a garage visible from the public right-of-way. This section shall not be construed as prohibiting the registered owner/occupant of a vehicle or boat, or part thereof, from performing minor repair of said vehicle in the driveway or other paved surface of a residence, provided that the vehicle or boat is registered to someone living in the residence. Further, this Section shall not be construed to prohibit the owner/occupant of the property from performing minor vehicles repairs for friends or family provided that the owner/occupant does not receive any monetary compensation for his or her labor and provided the owner/occupant does not store more than one (1) vehicle under repair on the property and visible from the public right-of-way.

(g) RESERVED

(h) MISCELLANEOUS

- (1) Any other condition or use of property which represents a threat to the health and welfare of the public by virtue of its unsafe, dangerous or hazardous nature.
- (2) The existence of any condition or use causing continuous or intermittent dense smoke, gas, soot, cinders or other particulate matter to such a degree as to render the occupancy of surrounding properties uncomfortable to a person of ordinary sensibilities.
- (3) Failure to comply with the requirements set forth in any City zoning approval or permit applicable to the premises.
- (4) The existence of any body of stagnant water or other liquid in which mosquitoes or

other insects may breed, or which may generate noxious or offensive gases or odors. This section shall not apply to properly maintained birdbaths, landscape ponds or fountains.

V-500-2.02: UNLAWFUL PROPERTY NUISANCE - PUBLIC PROPERTY. It shall be unlawful for any person owning, leasing, renting, occupying or having charge or possession of any private property in the City to use, maintain or allow to be maintained such property for any purposes so as to create any of the following conditions on adjacent or contiguous public property, except as may be allowed by this Code:

(a) OUTDOOR STORAGE, OPERATIONS OR ENCROACHMENT

- (1) The depositing of mud, dirt, sand, gravel, or concrete onto the public right-of-way. In the event that such material is deposited in the public right-of-way, the responsible party shall make every effort to ensure that the material does not flow into a public storm drain or watercourse and shall remove the material as quickly as is feasible, but in no event less than twenty-four (24) hours from the time of depositing.
- (2) The spilling of debris, including trash, paper, wood, plant cuttings and other vegetation, onto the public right-of-way or other public right of way.
- (3) Vehicles and/or other materials associated with business activity stored on the public right-of-way or in the public right-of-way.
- (4) The existence of any condition or use which unlawfully obstructs the free passage or use in the customary manner of any navigable waterway or any public park, square, public right-of-way, highway, lane or sidewalk.
- (5) The placement of items of business inventory, equipment, vehicles, furniture, or obstruction on any public right-of-way or sidewalk unless allowed by an encroachment permit, conditional use permit, or other City approval.

(b) MISCELLANEOUS

- (1) Any other condition or use of public property which represents a threat to the health and welfare of the public by virtue of its unsafe, dangerous or hazardous nature.

V-500-2.03: DECLARATION OF PUBLIC NUISANCE. Any private property, or use of private and/or public property found to be maintained in violation of the foregoing sections is hereby declared to be a public nuisance and shall be abated by rehabilitation, removal, or repair pursuant to the procedures set forth herein. The procedures for abatement set forth herein shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances or abating public nuisances in any other manner provided by law including, but not limited to, Civil Code Section 3480.

V-500-3.00: ABATEMENT PROCEDURE

V-500-3.01: NOTIFICATION OF NUISANCE. Whenever the City Manager determines that any property within the City is being maintained contrary to one or more of the provisions of this Chapter, he/she will give written notice ("Notice to Abate") to the owner/occupant(s) (as defined in Section V-500-1.09) of said property stating the section(s) being violated. Such notice shall set forth a reasonable time limit, in no event less than or equal to thirty (30) calendar days, for correcting the violation(s) and may also set forth suggested methods of correcting the same unless the City Manager determines that the condition constitutes a threat to the health and safety of any person, in which event, the City Manager may designate a shorter time limit for correcting the violation. The notice shall inform the owner/occupant of City programs that provide financial assistance to very low and low income persons for the repair and rehabilitation of residential property. Such notice shall be served upon the

owner/occupant in accordance with provisions of Section V-500-3.03 covering service in person or by mail.

V-500-3.01.1: EXCEPTION FOR UNDUE HARDSHIP. The notice shall also inform the owner/occupant (excluding an owner acting in a capacity of landlord of rental property) that, upon written request of the owner/occupant submitted within seven (7) calendar days of the "Notice to Abate", the City Manager, in his or her sole discretion, may allow for a time limit in excess of thirty (30) days for correcting the violation in cases where strict enforcement of the time limit would result in an undue hardship on the owner/occupant. In the written request, the owner/occupant shall state the reasons why strict enforcement of the time limit would result in an undue hardship.

V-500-3.02: ADMINISTRATIVE HEARING TO ABATE NUISANCE. In the event said owner/occupant shall fail, neglect or refuse to comply with the "Notice to Abate," the City Manager shall conduct an administrative hearing to ascertain whether said violation constitutes a public nuisance.

V-500-3.03: NOTICE OF HEARING. Notice of said administrative hearing shall be served upon the owner/occupant not less than seven (7) calendar days before the time fixed for hearing. Notice of the hearing shall be served in person or by certified mail to the owner/occupant's last known address. Service shall be deemed complete at the time notice is personally served or deposited in the mail. Failure of any person to receive notice shall not affect the validity of any proceedings hereunder. Notice shall be substantially in the format set forth below:

"NOTICE OF ADMINISTRATIVE HEARING ON ABATEMENT OF NUISANCE"

This is a notice of hearing before the City Manager (or his/her designees) to ascertain whether certain property situated in the City of Milpitas, State of California, known and designated as (public right-of-way address)\_\_\_\_\_, in said City, and more particularly described as (Assessor's Parcel Number) \_\_\_\_\_ constitutes a public nuisance subject to abatement pursuant to Chapter V-500 of the Milpitas Municipal Code. If said property, in whole or part, is found to constitute a public nuisance as defined in the Milpitas Municipal Code and if the same is not properly abated by the owner/occupant, such nuisance may be abated by municipal authorities, in which case the cost of such rehabilitation, repair, or abatement will be assessed upon such property and such costs, together with interest thereon, may constitute a special assessment or lien upon such property until paid. In addition, you may be cited for violation of the provisions of the Municipal Code and subject to an administrative fine.

Said alleged conditions consist of the following:

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The method(s) of abatement are:

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All persons having an interest in said matters may attend the hearing and their testimony and evidence will be Dated this \_\_\_\_\_day of \_\_\_\_\_, 20 \_\_\_\_.



\_\_\_\_\_  
City Manager

Time and Date of Hearing: \_\_\_\_\_

Location of Hearing: \_\_\_\_\_  
\_\_\_\_\_

V-500-3.04: ADMINISTRATIVE HEARING BY CITY MANAGER OR HIS/HER DESIGNEES. At the time stated in the notice, the City Manager shall hear and consider all relevant evidence, objections or protests, and shall receive testimony relative to such alleged public nuisance and to proposed rehabilitation, repair, removal or abatement of such property. Said hearing may be continued from time to time.

If the City Manager finds that such public nuisance does exist and that there is sufficient cause to rehabilitate, abate, remove or repair the same, the City Manager shall prepare findings and an order, which shall specify the nature of the nuisance, the method(s) of abatement and the time within which the work shall be commenced and completed. A copy of the findings and order shall be served on all owner/occupants of the subject property in accordance with the provisions of Section V-500-3.03. In addition, a copy of the findings and order shall be forthwith conspicuously posted on the property. The order shall set forth the time within which such work shall be completed by the owner/occupant, in no event less than fifteen (15) calendar days. The findings and order of the City Manager shall be final.

In the event the owner/occupant fails to abate the nuisance as ordered, the City Manager shall cause the same to be abated by City employees or private contract. The costs shall be billed to the owner/occupant, as specified in Sections V-500-4.01 through V-500-4.05. In appropriate circumstances, the City Manager shall request the City Attorney to obtain all necessary judicial approval for entry onto the subject premises for abatement purposes.

V-500-3.05: HEARING PROCEDURE BEFORE CITY MANAGER AND HIS/HER DESIGNEES. All hearings shall be tape recorded.

Hearings need not be conducted according to the technical rules of evidence.

Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state. Any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

Irrelevant and unduly repetitious evidence shall be excluded.

V-500-3.06: RESERVED

V-500-3.07: LIMITATION ON FILING JUDICIAL ACTION. Any judicial action appealing the City Manager's decision and order shall be commenced within thirty (30) calendar days of the date of service of the decision.

V-500-3.08: SUMMARY ABATEMENT OF IMMEDIATE HAZARD OR OBSTRUCTION. In the event of:

- (a) A nuisance defined by statute, ordinance or resolution as a public nuisance which constitutes an immediate danger to persons or property, or
- (b) A nuisance defined by statute, ordinance or resolution as a public nuisance which is located or maintained on public property including, but not limited to, any public right-of-way, highway, sidewalk, easement, park or building, or
- (c) Any obstruction or encroachment to free passage upon any public property (which is hereby declared to be a public nuisance) including, but not limited to, any public right-of-way, highway, easement, sidewalk, park or building, the City Manager may, forthwith and without notice, abate said nuisance and recover the cost of abatement as provided for in Section V-500-4.00.

V-500-4.00: COST RECOVERY

V-500-4.01: RECOVERY OF COSTS. This section establishes procedures for the recovery of administrative costs, as well as attorneys fees and costs, incurred by the City in the enforcement process, for the abatement of conditions defined as a nuisance by Section V-500-2.01, and Section V-500-2.02.

V-500-4.02: DEFINITION OF COSTS. For the purposes of this Chapter, "costs" shall mean administrative costs, including staff time expended and reasonably related to nuisance abatement cases, for items including, but not limited to, investigation, site inspection and monitoring, testing, reports, telephone contacts, correspondence and meetings with affected parties, as well as all attorneys fees incurred pursuant to abatement proceedings, including but not limited to filing fees and fees for witnesses, and the actual costs of abating the violation.

V-500-4.03: COST ACCOUNTING AND RECOVERY REQUIRED. The City shall maintain records of all costs incurred by responsible City departments associated with the enforcement process pursuant to this Chapter and shall recover the costs from the property owner/occupant as provided by this section.

V-500-4.04: NOTICE OF COST RECOVERY REQUIREMENTS. The City Manager shall include in the "Notice to Abate" a statement of the intent of the City to charge the property owner/occupant for all costs incurred by the City if the violation is not corrected as required. The notice shall state that the property owner/occupant will receive at the conclusion of the enforcement case a summary of enforcement costs associated with the processing of the case.

V-500-4.05: COLLECTION OF CHARGES. Such costs shall be recoverable as provided for in Sections V-500-5.01 through V-500-5.02.

V-500-5.00: LIEN PROCEDURE

V-500-5.01: RECORD OF COST OF ABATEMENT. The City Manager shall keep an account of the costs, as defined in Section V-500-4.02 for abating such nuisance on each separate lot or parcel of land where the work is done by the City and shall render an itemized report in writing showing the cost of abatement, including the rehabilitation or repair of said property, including any salvage value relating thereto. A copy of the same shall be posted for at least five (5) calendar days upon such property, together with a notice of the right to appeal to the City Manager. A copy of said report and notice shall be served upon the owner/occupants of said property, based on the last equalized assessment roll or the supplemental roll, whichever is more current. If the owner/occupant of record, after diligent search, cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in the county in which the property is located. Proof of said posting and service shall be made by affidavit filed with the City Clerk. The owner/occupant shall have thirty (30) calendar days from the date upon which the notice is served to reimburse the City for its costs or to

otherwise make arrangements for repayment as to which the City, in its sole discretion, may agree.

V-500-5.02: ASSESSMENT AND LIEN. The total cost for abating such nuisance, as so confirmed by the City Manager, shall, upon failure to pay the costs as specified in Section V-500-5.01, constitute a lien or special assessment pursuant to Government Code Sections 38773.1 (nuisance abatement lien), 38773.2 (graffiti nuisance abatement lien) or 38773.5 (special assessment), 38773.6 (graffiti special assessment) against the respective lot or parcel of land to which it relates.

After confirmation and recordation of a Notice of Special Assessment, a certified copy of the City Manager's decision shall be filed with the Santa Clara County Assessor's Office on or before August 1 of each year, whereupon it shall be the duty of said Assessor to add the amounts of the respective assessments to the next regular tax bills levied against said respective lots and parcels of land for municipal purposes and thereafter said amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided of ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessments.

Upon recordation in the Office of the County Recorder, a Notice of Lien, as so made and confirmed, shall constitute a lien on said property and from the date of recording shall have the force, effect, and priority of a judgment lien.

In the alternative, after such recordation, such lien may be foreclosed by an action brought by the City for a money judgment or by any other means provided by law.

A Notice of Lien for recordation shall be in form substantially as follows:

"NOTICE OF LIEN"

(Claim of City of Milpitas)

Pursuant to the authority vested by the provisions of Section V-500-2.03 of the Milpitas Municipal Code, the City Manager of the City of Milpitas did on or about the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, cause the property hereinafter described to be rehabilitated or the building or structure on the property hereinafter described, to be repaired or demolished in order to abate a public nuisance on said real property, pursuant to an order to abate issued by \_\_\_\_\_ on \_\_\_\_\_; and the City Manager of the City of Milpitas did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, assess the cost of such rehabilitation, repair, demolition, or abatement upon the real property hereinafter described; and the same has not been paid nor any part thereof; and that said City of Milpitas does hereby claim a lien on such rehabilitation, repair, or abatement in the amount of said assessment, to wit; the sum of \$\_\_\_\_\_: and the same, shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property hereinabove mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of Milpitas, County of Santa Clara, State of California, owned by \_\_\_\_\_ and more particularly described as follows (legal description):

(description)

In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the amount of the lien, the name of the agency on whose behalf the lien was imposed, the date of the abatement order, the public right-of-way address, legal description, and the name and address of the recorded owner/occupant of

the property shall be recorded by the governmental agency. A nuisance abatement and the release of the lien shall be indexed in the grantor-grantee index.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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City Manager

V-500-6.00: INTEREST ON LIENS

V-500-6.01: AMOUNT OF INTEREST ON CITY LIENS AND ASSESSMENTS-FINDINGS. The City Council finds and declares that the establishment of an interest accrual requirement as to unpaid City liens and assessments upon real property which are of record with the County Recorder for Santa Clara County is a necessary and appropriate exercise of the City Council's police power.

V-500-6.02: ACCRUAL OF INTEREST ON LIENS AND ASSESSMENTS. Unless otherwise prohibited by law or regulation, all liens and assessments which are imposed by the City against any real property located in the City of Milpitas that are recorded on and after the effective date of this regulation shall accrue interest at the rate of eight (8) percent annually until the lien or assessment, including interest thereon, is paid in full.

V-500-7.00: MISCELLANEOUS

V-500-7.01: ALTERNATIVE ACTIONS AVAILABLE; VIOLATION AN INFRACTION. Nothing in this Chapter shall be deemed to prevent the Council from ordering the commencement of a civil proceeding to abate a public nuisance pursuant to applicable law or from pursuing any other remedy available under applicable law. Violation of the provisions of this Chapter constitutes an infraction, as set forth in Section I-1-4.09 of the Municipal Code. The City Manager is designated as the enforcement authority.

V-500-7.02: ADDITIONAL COSTS OF ABATEMENT. The City Council provides that a court may order the owner/occupant of property responsible for a condition that may be abated in accordance with this Ordinance to pay three times the costs of abatement pursuant to Government Code 38773.7 upon the entry of a second civil court judgment for violation of this Chapter within a two-year period.

V-500-7.03: RESIDENTIAL RENTAL HOUSING. The notice sent to the owner/occupant of residential rental housing pursuant to Section V-500-3.01 shall contain the statement required by Health & Safety Code Section 17980 regarding the application of Revenue & Taxation Code Sections 17274 and 24436.5, which allow the Franchise Tax Board to deny state income tax deductions to taxpayers who fail to bring substandard residential rental property into compliance with this Ordinance.

V-500-8.00: ADMINISTRATIVE CITATION.

V-500-8.01: Whenever an enforcement officer charged with the enforcement of any provision of this Chapter determines that a violation of that provision has occurred, the enforcement officer shall have the authority to issue an administrative citation to any person responsible for the violation.

V-500-8.02: Each administrative citation shall contain the following information:

1. The date of the violation;
2. The address or a definite description of the location where the violation occurred;
3. The section of this Chapter violated and a description of the violation;
4. The amount of the fine for the code violation;
5. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
6. An order prohibiting the continuation or repeated occurrence of the violation described in the administrative citation;
7. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and
8. The name and signature of the citing enforcement officer.

V-500-8.03: AMOUNT OF FINES

- (a) The amounts of the fines for code violations imposed pursuant to this Chapter shall be set forth in the schedule of fines established by resolution of the City Council.
- (b) The schedule of fines shall specify any increased fines for repeat violations of the same code provision by the same person within twelve months from the date of an administrative citation.
- (c) The schedule of fines shall specify the amount of any late payment charge imposed for the payment of a fine after its due date.

V-500-8.04: PAYMENT OF THE FINE

- (a) The fine shall be paid to the City within thirty days from the date of the administrative citation.
- (b) Any administrative citation fine paid pursuant to V-500-8.04(a) shall be refunded, with interest, if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.
- (c) Payment of a fine under this Chapter shall not excuse or discharge any continuation or repeated occurrence of the code violation that is the subject of the administrative citation.

V-500-8.05: HEARING REQUEST

- (a) Any recipient of an administrative citation may contest that there was a violation of the Code or that he or she is the responsible party by completing a request for hearing form and returning it to the City within fifteen (15) days from the date of the administrative citation, together with an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed.
- (b) A request for hearing form may be obtained from the City Clerk.
- (c) The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.
- (d) If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report also shall be served on the person requesting the hearing at least five days prior to the date of the hearing.

V-500-8.06: ADVANCE DEPOSIT HARDSHIP WAIVER

Any person who intends to request a hearing to contest that there was a violation of the Code or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine as required in Section V-500-8.05 may file a request for an advance deposit hardship waiver at the time of filing the hearing request."

Section 65. PUBLICATION AND EFFECTIVE DATE.

Pursuant to the provisions of Government Code Section 36933, a Summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting. This ordinance shall become effective on February 1, 2000.

Section 7. SEVERABILITY

In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.